

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DON CARVICA HOGUE,
Petitioner,

v.

SUPERINTENDENT
DAVID CLOSE, *et al.*,
Respondents.

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CIVIL ACTION NO. 21-CV-5349

ORDER

AND NOW, this 22nd day of August 2024, upon consideration of the Petition for Writ of *Habeas Corpus* (ECF No. 1), the Response to the Petition (ECF No. 11), the Report and Recommendation filed by United States Magistrate Judge José Raúl Arteaga (ECF No. 26), and the Objections to the Report and Recommendation (ECF No. 27), and after a thorough and independent review of the record, it is hereby **ORDERED** that:

1. The Report and Recommendation of Magistrate Judge José Raúl Arteaga (ECF No. 26) is **APPROVED** and **ADOPTED**;
2. Petitioner's Objections (ECF No. 27) are **OVERRULED**;¹
3. The Petition for Writ of *Habeas Corpus* is **DISMISSED WITHOUT PREJUDICE**; and

¹ Petitioner lodges two objections to Judge Arteaga's Report and Recommendation. First, Petitioner objects that his PCRA counsel was ineffective due to counsel's failure to "protect Petitioner's constitutional rights" by "object[ing] to arguable claims." *See* ECF No. 27 at 1-2. Second, Petitioner objects that 42 Pa. C.S.A. § 9714 is unconstitutional as applied to him. *See id.* at 3-4. These objections appear to restate Petitioner's habeas claims, *see* ECF No. 1 at 10-11, 23-24, and fail to address any of Judge Arteaga's analysis from the Report and Recommendation, *see* ECF No. 27 at 15-18, 21-22. Therefore, Petitioner's objections are overruled for the same reasons that Petitioner's habeas claims were denied, as discussed and analyzed at length by Judge Arteaga in the Report and Recommendation.

4. No certificate of appealability shall issue because the petitioner has not made a substantial showing of the denial of a constitutional right under 28 U.S.C. § 2253(c)(2).

BY THE COURT:

/s/ Chad F. Kenney

CHAD F. KENNEY, JUDGE